

REMARKS

Applicant respectfully requests continued examination of this application in which claims 6-12 and 15-22 remain pending.

The requirements of 35 USC 112 are satisfied.

In the Final Office Action of July 24, 2008, the Examiner rejected claims 6, 16 and 17 under 35 U.S.C. §112, first paragraph, alleging that the description did not indicate how a node ascertains and selects an alternative path for rerouting. Applicant respectfully disagrees and would like to respectfully direct the Examiner's attention to page 10 of the specification, beginning at line 16. The specification indicates that a source node 102 includes a routing-controller 108. The following portions of the description describe how the routing controller of the source node ascertains and selects an alternative path for rerouting. Therefore, there is no basis for rejecting claims 6, 16 and 17 under 35 U.S.C. §112, first paragraph.

The Examiner rejected claims 16 and 18 under 35 U.S.C. §112, second paragraph. Corrections have been made to the text of those claims to address the Examiner's concern and those claims are now clear.

35 U.S.C. §102 is satisfied.

In the Final Office Action, the Examiner rejected claim 5 under 35 U.S.C. §102(e) as being anticipated by the *Hu, et al.* reference. Claim 5 is cancelled. That rejection is moot.

In the final action, the Examiner rejected claims 6, 10, 15 and 17 under 35 U.S.C. §102(b) based upon the *Shirai, et al.* reference. There is no *prima facie* case of anticipation. The *Shirai, et al.* reference does not replace a path with an alternative path for a remainder of a communication session between a source node and a destination node. At most, the *Shirai, et al.*

reference may periodically direct a frame or several frames along a backup trunk. In the *Shirai, et al.* reference, however, there is always a return to the standard trunk. The backup trunk never replaces the standard trunk for a remainder of a communication session according to the *Shirai, et al.* reference. Therefore, there is no *prima facie* case of anticipation.

It is also not possible to consider any of Applicant's claims to be obvious based upon the *Shirai, et al.* reference regardless of what other reference the Patent Office may attempt to combine with it. If one were to modify the *Shirai, et al.* reference to somehow make it consistent with Applicant's claims, that would change the principle of operation of the *Shirai, et al.* reference. It is not possible to modify the *Shirai, et al.* reference to have it replace one path with another without changing the principle of operation of that reference, which includes using the standard transit trunk whenever possible and using a backup transit truck for a frame or several frames in the event of congestion on the standard transit trunk. The standard transit trunk is never replaced in the *Shirai, et al.* reference. It follows that if one were to somehow modify that reference to make it consistent with Applicant's claims, that would change the principle of operation of the *Shirai, et al.* reference. MPEP 2143.01(VI) explains that such a modification cannot be made to a reference when attempting to manufacture a *prima facie* case of obviousness.

Conclusion

Applicant believes that this case is in condition for allowance. None of the references teach the claimed technique of selecting an alternative path and replacing a first path with that alternative path for a remainder of the communication session.

Respectfully submitted,
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